

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CHONG and MARILYN YIM, KELLY
LYLES, EILEEN, LLC, and RENTAL
HOUSING ASSOCIATION OF
WASHINGTON

Plaintiffs,

v.

THE CITY OF SEATTLE, a Washington
Municipal corporation,

Defendant.

CASE No. 2:18-cv-736-JCC

**MOTION FOR LEAVE TO FILE BRIEF OF THE
NATIONAL HOUSING LAW PROJECT &
SARGENT SHRIVER NATIONAL CENTER ON
POVERTY LAW AS *AMICUS CURIAE* IN
SUPPORT OF DEFENDANT**

NOTE ON MOTION CALENDAR:
November 2, 2018

1 The National Housing Law Project and Sargent Shriver National Center for Poverty Law,
 2 hereby submit this Motion for Leave to File a Brief as *Amicus Curiae* in Support of Defendant.

3
 4 **I. MOTION FOR PERMISSION TO FILE BRIEF OF *AMICUS CURIAE*.**

5
 6 **1. Identity of Moving Parties**

7 Sargent Shriver National Center on Poverty Law (“Shriver Center”) provides national
 8 leadership to promote justice and improve the lives and opportunities of people living in poverty. The
 9 Shriver Center uses a multi-faceted approach consisting of litigation, legislative and policy advocacy,
 10 and administrative reform, to achieve economic, racial and social justice for our clients, including
 11 justice-involved populations. The Shriver Center’s Housing Justice and Community Justice team
 12 focuses their advocacy on the collateral consequences of contact with the criminal justice system,
 13 working to ensure that justice-involved Americans have fair opportunities to access safe, decent and
 14 affordable housing.
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 17 The National Housing Law Project (“NHLP”) is a nonprofit national housing and legal
 18 advocacy center established in 1968, whose mission is to advance housing justice for low-income
 19 people by increasing and preserving the supply of decent, affordable housing; preserving, expanding,
 20 and enforcing tenants’ rights in housing; improving existing housing conditions; and minimizing
 21 involuntary displacement. NHLP’s reentry initiative focuses on expanding housing opportunities for
 22 people with a criminal record. As part of the project, NHLP partners with a host of housing and
 23 criminal justice reform organizations including local and national advocates, tenant and advocacy
 24 networks, nonprofit developers, and allied housing organizations. Through policy advocacy and
 25 litigation, NHLP has contributed to many critically important changes to policy and programs that
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1 have resulted in increased housing access and improved housing conditions for low-income, justice-
 2 involved people..

3
 4 Stemming from decades of expertise and experience, Shriver Center and NHLP have a strong
 5 commitment and interest in the barriers that impact the ability to obtain safe, healthy, and affordable
 6 housing and how this intersects with criminal justice. Having worked at this intersection across the
 7 country, Shriver Center and NHLP have a unique perspective that will increase the Court's
 8 understanding of the national trends regarding the use and preparation of criminal records. The Shriver
 9 Center and NHLP also seek to educate the Court regarding the extreme deficit of affordable and
 10 subsidized housing available—especially for people with criminal records.
 11

12 **2. Statement of Relief Sought**

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 14 NHLP and Shriver Center seek leave from the Court to file an *amicus curiae* brief to assist the
 15 Court by providing their distinct perspective to explain and add context to the public interest in City of
 16 Seattle Ordinance 125393 (herein “Ordinance 125393”), beyond the perspective on the parties in this
 17 case. Granting leave to file an *amicus* is appropriate as courts regularly use *amicus curiae* briefs to
 18 assist “in cases of general public interest.” *Alexander v. Hall*, 64 F.R.D. 152, 155 (D. S.C. 1974).
 19 “The district court has broad discretion regarding the appointment of amici.” *Missouri v. Harris*, No.
 20 2:14-CV-00341-KJM, 2014 WL 2987284, at 2 (E.D. Cal. July 1, 2014) (citing *Hoptowit v. Ray*, 682
 21 F.2d 1237, 1260 (9th Cir. 1982) *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472
 22 (1995)). (upholding district court’s appointment of amici). “An *amicus* brief should normally be
 23 allowed when, among other considerations, the *amicus* has unique information or perspective that can
 24 help the court beyond the help that the lawyers for the parties are able to provide” *Harris*, 2014 WL
 25 2987284 at 2 (citing *Cnty. Ass’n for Restoration of Env’t (CARE) v. DeRuyter Bros. Dairy*, 54
 26
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1 F.Supp.2d 974, 975 (E.D.Wash.1999)). (non-profit organizations appointed by district court as amici
 2 in case challenging California law); *see also Miller-Wohl Co. v. Comm'r of Labor & Indus. State of*
 3 *Mont.*, 694 F.2d 203, 204 (9th Cir. 1982).
 4

5 **3. Issues to Which the *Amicus Curiae* Brief Will Be Directed**

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 7 Defendant City of Seattle seeks to uphold the Ordinance. Shriver Center and NHLP
 8 respectfully seek leave to file an *amicus curiae* brief to support Defendant's position by addressing
 9 three critical issues.

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 11 First, the brief will place the Ordinance in the context of an emerging national trend to question
 12 and eradicate unreasonable housing barriers for people who have left the criminal justice system. The
 13 brief will address the growing recognition amongst federal and state policymakers about the need to
 14 reduce the overreliance on criminal records in housing, given the limited value of past criminal history
 15 as a means of predicting future behavior. This discussion will also touch upon similar efforts to restrict
 16 criminal records screening in the employment sector and how the Ordinance successfully draws upon
 17 lessons learned in those efforts.
 18

19 Second, the brief will address the private rental market's necessary role in ensuring that people
 20 who have left the justice system have equitable access to housing. This discussion will provide an
 21 overview of the rapidly declining availability of Federally subsidized housing for people living in
 22 poverty, including justice-involved individuals. This discussion will also examine the shortage of
 23 supportive housing in general and for people coming out of jail and prison. These shortages are
 24 especially acute in dense urban areas, such as Seattle, where a significant number of formerly
 25 incarcerated people reside in order to be close to employment and other resources that would help them
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1 leave the criminal justice system behind them.

2
3 Third, to show how these records are not “public” in the common sense of the word, Shriver
4 Center and NHLP will explain how criminal records are created, compiled, packaged and marketed.
5 This discussion will include an explanation of the evolving, largely unregulated industry of tenant
6 screening, which will further demonstrate why Seattle’s regulation of criminal records screening in
7 housing is of utmost importance.

8
9 **CONCLUSION**

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11 For these reasons, the Court should grant this Motion, and permit The National Housing Law
12 Project and The Sargent Shriver Center for Poverty Law to file their Brief of *Amicus Curiae*.

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CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2018, the foregoing document was electronically filed with the United States District Court's CM/ECF system, which will send notification of such filing to all attorneys of record.

s/ Eric Dunn
Eric Dunn